

MONTANA LEGISLATIVE HISTORY

Chapter 237 19 61

Bill H _____ S 78 Original bill & history C

H. Committee on Judiciary

Hearing Date(s) 2-24 _____ C

2-25 _____ C

_____ C

_____ C

Date Out Gen. 2-29 _____ C

S. Committee on Water & Irrigation

Hearing Date(s) 1-23 _____ C

1-24 _____ C

2-28 _____ C

2-29 _____ C

Did this bill originate in an interim committee? Yes _____ No _____

Committee _____

Report _____

FINAL STATUS OF SENATE BILLS

B. No.	Author	Short Title	Last History
74.	Cashmore, McGowan	Eliminate certain paper work in liquor store purchases.	Killed in Senate Public Health Committee, 1/28/61.
75.	Cotton	Providing seven cents a mile to state or county employees except sheriffs when using own auto on official duty, and nine cents a mile to county school superintendents.	Killed in Senate Local Government Committee, 1/20/61.
76.	Cotton, et al.	Providing annual minimum sick leave of five days for public school teachers.	Killed in House Committee of the Whole, 2/24/61.
77.	Shaw, et al.	Permitting counties to rescind bond issues not sold after three years after public approval.	Signed by Governor, 3/7/61. Effective 7/1/61. Chapter 210.
78.	McGowan, et al.	Requiring permit from state engineer to drill for underground water.	Killed in House Committee on Judiciary, 2/25/61.
Hse. Sub. 78.	Judiciary Committee	Requiring permit from state engineer to drill for underground water.	Signed by Governor, 3/14/61. Effective 1/1/62. <u>Chapter 237.</u>
79.	Harken	Misdemeanor for failure to carry vehicle registration receipt in all motor vehicles except cars.	Signed by Governor, 3/3/61. Effective 7/1/61. Chapter 139.
80.	Michels	Excessive highway loads to be cared for by vehicle owner at his risk.	Killed in House Highways Committee, 2/20/61.
81.	Michels	Place failure to have truck registration receipt under penalty section of law.	Signed by Governor, 3/2/61. Effective, 7/1/61. Chapter 122.
82.	Michels, et al.	Removing presumption or inference as to liability in motor vehicle-livestock collision on U. S. or state highways.	Killed in Senate Highway Committee, 2/26/61.
83.	Groff, et al.	Ratifying the Columbia Interstate Compact.	Signed by Governor, 2/28/61. Effective, 2/28/61. Chapter 85.
84.	Thiessen, et al.	Permit counties, cities, or towns alone or jointly to establish and maintain an ambulance service.	Killed in Senate Local Government Committee, 1/27/61.
Sub. 84.	Local Government	Permit counties, cities, or towns alone or jointly to establish and maintain an ambulance service.	Signed by Governor, 3/14/61. Effective, 7/1/61. Chapter 238.
85.	Anderson	Deleting obsolete provisions concerning expiration of driver licenses.	Killed in House Committee of the Whole, 2/25/61.
86.	Stein	Surrendering other driver's licenses upon issuance of Montana licenses.	Killed in Senate Highway Committee, 1/20/61.
Sub. 86.	Highways	Surrendering other driver's licenses upon issuance of Montana licenses.	Signed by Governor, 3/7/61. Effective, 7/1/61. Chapter 211.

SENATE COMMITTEE ON WATER & IRRIGATION

BILL NO.	ENTERED COMM.	OUT OF COMM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CON- CURRED	BE NOT CON- CURRED IN
SB 83	1-20-61	1-20-61	X				
SB 151	1-23-61	1-23-61	X				
SB 98	1-23-61	1-23-61			X		
SB 78	1-23-61	1-23-61			X		
SB 117	1-25-61	1-25-61	X				
HB 242	Feb. 15, 1961	Feb. 22, 1961				✓	
HB 376	Feb. 15, 1961	Feb. 17, 1961				✓	

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January 23, 1961

A meeting of the Committee on Water and Irrigation was called to order at 12:30 P.M. on January 23, 1961, in Room 404, by Chairman Gordon with the following members present: McGowan, Stein, Groff, Newman, Schoonover, Balgord, Shaw, Brenner, Rice.

Senate Bill 98 was amended by deleting Section 4 on page two of the original Bill in its entirety. Senator Brenner moved that Senate Bill 98, as amended Do Pass. Senator Groff seconded the motion and Senate Bill 98 was passed.

Senate Bill 151. Senator Groff moved that Senate Bill 151 Do Pass. Senator Brenner seconded the motion and the motion carried.

C Senate Bill 78 was discussed and was amended as shown in the Attached Report. Senator Groff made the motion that Senate Bill 78, as amended, Do Pass. Senator Stein seconded the motion and the motion carried. *held # 78 until Jan. 24.*

There being no further business to come before the Committee, Senator Rice moved the meeting be adjourned. Senator Schoonover seconded the motion and the meeting adjourned.

GORDON MCGOWAN, CHAIRMAN

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January 23, 1961

H. PRESIDENT:

We, your Committee on WATER AND IRRIGATION having had under consideration SENATE Bill No. 78

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO AND PROVIDING FOR THE APPROPRIATION AND REGULATION OF GROUND WATER; DEFINING TERMS USED IN THE ACT; PROVIDING FOR THE APPROPRIATION OF GROUND WATER; PROVIDING FOR THE FILING OF CLAIMS OF VESTED GROUND WATER RIGHTS WITH THE STATE WATER CONSERVATION BOARD AND COUNTY CLERK AND RECORDER; PROVIDING FOR THE FILING OF NOTICES OF APPROPRIATION OF GROUND WATER AFTER THE EFFECTIVE DATE OF THE ACT WITH THE STATE ENGINEER AND COUNTY CLERK AND RECORDER; PROVIDING FOR PRIOR RIGHTS; PROVIDING FOR THE DESIGNATING AND MODIFYING OF BOUNDARIES OF GROUND WATER AREAS AND SUB-AREAS BY STATE WATER CONSERVATION BOARD; AUTHORIZING STATE WATER CONSERVATION BOARD TO MAKE SURVEYS, INVESTIGATIONS AND STUDIES OF GROUND WATERS; PROVIDING FOR THE LIMITING OF WITHDRAWALS FROM GROUND WATER AREAS OR SUB-AREAS; PROVIDING FOR CHANGE OF LOCATION OF GROUND WATER WELLS AND OTHER WORKS; PROVIDING FOR ABANDONMENT OF GROUND WATER RIGHTS; PROVIDING AGAINST WASTE OF GROUND WATERS AND PROVIDING FOR THE REGULATION OF WELLS TO PREVENT WASTE; PROVIDING FOR A HEARING BEFORE THE DISTRICT COURT TO CONFIRM THE ORDERS OF THE STATE WATER CONSERVATION BOARD; PROVIDING FOR APPEALS; AUTHORIZING COUNTY ATTORNEYS TO PERFORM CERTAIN SERVICES; AUTHORIZING STATE WATER CONSERVATION BOARD TO ADMINISTER OATHS AND TO PRESCRIBE REASONABLE RULES AND REGULATIONS; PROVIDING FOR FEES; PROVIDING PENALTIES FOR VIOLATIONS OF THE ACT; AND REPEALING SECTIONS 89-2901 TO 89-2910, INCLUSIVE, REVISED CODES OF MONTANA, 1947, AND ALL ACTS AND PARTS OF ACTS IN CONFLICT WITH THE PROVISIONS OF THIS ACT; PROVIDING FOR A SAVING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 78

Be Amended to read as follows:

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Amend subsection (a), of Section 2 of original Senate Bill No. 78 by inserting in line 17 on page 2 the word "fresh" before the word "Water", so that line 17, as amended, will read: "(a) "groundwater" means any fresh water under the surface."

Amend subsection (a) of Section 2 of original Senate Bill 78 by adding in line 19 on page 2 following the period (".") the two sentences, to-wit: "Fresh water shall be deemed to be water fit for domestic, livestock or agricultural use. The board, after notice and hearing, is authorized to fix definite standards for determining fresh water in any controlled groundwater area or sub-area of the state.", so that line 19, as amended, will read: "lake, reservoir or other body of surface water. Fresh water shall be deemed to be water fit for domestic, livestock or agricultural use. The board, after notice and hearing, is authorized to fix definite standards for determining fresh water in any controlled groundwater area or sub-area of the state."

Amend Section 4(h) by striking out in line 27, at Page 7 of the Original Bill, the words "record here" and inserting in lieu thereof the words "Declaration of Vested Groundwater"

1/23/61

Amend Section 16 at page 17 of the Original Bill by striking out the last sentence of Section 16 in its entirety.

Amend Section 25 at page 20 of the original bill by striking said Section 25 in its entirety, and changing Section 26 to "Section 25", Section 27 to "Section 26", Section 28 to "Section 27", Section 29 to "Section 28", Section 30 to "Section 29", Section 31 to "Section 30".

And as Amended

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DO PASS

GORDON McGOWAN

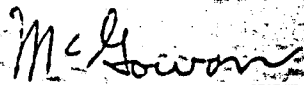
CHAIRMAN

January 24, 1961

A meeting of the Committee on Water and Irrigation was called to order at 11:45 A.M., on January 24, 1961, in Room 404 by Chairman McGowan, with the following members present: McGowan, Stein, Groff, Newman, Schoonover, Balgord, Shaw, Brenner.

Senator Groff made a motion that Senate Bill No. 78, as amended, do pass. Senator Newman seconded the motion and the motion carried.

There being no further business to come before the Committee, Senator Brenner moved the meeting be adjourned. Senator Shaw seconded the motion and the meeting adjourned.


GORDON MCGOWAN, CHAIRMAN

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SENATE BILLS REFERRED TO COMMITTEE ON JUDICIARY

Number	Date	Date Reported Out	In Sub-Comm.	As Amended	Be Con- curred In.	Be Not Conn. In.
SB167	1-31-61	2-23-61	Brayford, Blewett Sturtevant			
SB186	2-1-61	2-11-61			✓	
SB195	2-1-61					
SB115	2-3-61	2-14-61				✓
SB133	2-3-61	2-22-61			✓	
SB148	2-3-61	2-23-61				✓
SB198	2-4-61	2-15-61			✓	
Sub SB34	2-4-61	2-17-61			✓	
SB103	2-7-61	2-22-61				✓
SB148	2-3-61	2-23-61				✓
SB198	2-4-61	2-15-61			✓	
Sub SB34	2-4-61	2-17-61			✓	
SB103	2-7-61	2-22-61				✓
SB20	2-10-61	2-23-61		✓	✓	
SB69	2-18-61	2-23-61			✓	
SB119	2-18-61					
Sub SB	2-16-61	2-22-61			✓	
NB105						
SB78	2-21-61	2-25-61				✓ But Sub. Bill B.C.

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February 24, 1961

JUDICIARY COMMITTEE

Meeting of the House Judiciary Committee was held at 8 a.m. on Friday, February 24, 1961. Chairman Haughey presided.

Upon roll call all members were present.

Hearing on Senate Bill No. 73 was held. Senator McGowan, D-Choteau, chief author of the bill, spoke as a proponent of this bill. Summary of the bill, taking section by section was passed out to the members of the committee. We are trying to get something on the statutes. Water is used by everybody and everybody is interested in it. There are 12 states that have underground water laws. There is no reason why Montana cannot write one of the best laws in the U.S. Map was explained to the members of the committee. It is the first time in the history of Geraldine, Montana that they have had flow of water. There are farmers all around Geraldine trying to change and go into livestock. They proved the water was there and they have no protection whatsoever. In no way should you construe it with surface water. This is a brand new bill. But, people try to construe this with surface water. Practically all of the entire livestock industry in Montana are dependent on water, one of the greatest needs today. We are looking forward in the State of Montana to an industrial water program. Under this proposal by setting it up here in Montana under the Water Board all information will be there. Oregon has a dual board. In 1955 we had a State Engineer, then the people did not want him. In 1959 I introduced a bill again and used the Water Board; then the people didn't want the Water Board. We then decided that it would be the fairest way to use the dual board. The purpose of all of this is to give the little man some protection. Anybody will agree that the courts are the last resort. The greatest problem we have today in the great structure of water is the people's lack of knowledge. This is probably one of the most important pieces of legislation that is going to appear before this session this time. If we fail to pass this — down in the Malta-Wolf Point area if they start to loose their water then they will be starting to sue one another. If we start now, changes can be made two years from now. There is not one good reason or good argument against this bill.

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Appearing first for the opponents was Mr. Wesley D'Ewart, Legislative Representative for the Farm Bureau. We can agree that it is better to have an underground water code before we get into difficulties. I know the difficulty in writing such an act. The second part of the bill has to do with administrative procedure. You all know what a difficult time they had to write the administrative procedure act. We feel that if you think it is necessary that you get a bill out that you limit it to provision of filing to consumptive use of underground water. I am not recommending

it, I am offering it to you for your consideration. We think that the Water Board is unnecessary in this act and that it would clutter up the records in the facts of the case. Underground waters is something you do not see. It is hard to measure, it is a difficult thing to determine. On the Water Board there is no geologist, no engineer, no lawyer. All of these are needed to determine under this act. We think under this act that 91 or Substitute Bill offered with some amendments would better fit this administration. When you go into administrative procedure, we have doubts that this bill will be of benefit. We oppose parts that have to do with administrative procedure.

Mr. Hank Wilson, President of the Montana Farm Bureau, was the next opponent to speak. We come here to oppose this bill as Senator McGowan has set up this commission in the bill. We would sure tell you right here and now if Senate Bill No. 78 is brought out to the floor, we have nothing to do but oppose it. If you consider our substitute bill it would be alright, but if you think we are all wondering in the dark then we suggest that you kill them both. We want to do it right when we do it.

Mr. Jess Green, representing Gallatin Water Users, spoke as an opponent. We come here to oppose a big administrator over our waters. We would like not to take the rights of the individual to a big State Board. We want a simple law which the people can read and which they know. We hope that we are not that unable to handle our own business. We don't have but a few laws in Montana but this is not urgent if it is not set up right.

own business. We don't have but a few laws in Montana but this is not urgent if it is not set up right.

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Mr. Bill Black, Farmer and Rancher in Gallatin Valley, and Director of Gallatin Valley Water Users Association, spoke as an opponent. We would be wise if we would give this a lot of consideration. We as American people are going to have to support this in taxes. If we administer this from the state level it is going to cost us a lot of money.

Mr. John C. Paugh, Gallatin County Water Users Association, spoke as an opponent. If a judge does not want to adjudicate and won't do the work in the district, I see no reason why he doesn't resign and get someone else to do the job. When this bill was drawn up I went to my lawyer. I would like to recommend that you pay particular attention to Page 10, Line 11, Page 20 and Section 23, Page 22, Section 27. We are opposed to Senate Bill No. 78 as it stands in every way.

Senator McGowan spoke on rebuttal. By the testimony I can see that all you are trying to do is confuse this committee. There is no other opposition to this bill except the people in Gallatin County. Senate Bill 91 is dead. Senate Bill No. 78 passed the Senate without a dissenting vote. The purpose of the Water Board is the Governor sits on it and everybody would get a fair hearing. Why is it now that when 12 states have written underground water code, we cannot pass this bill here in Montana? Wyoming even passed this legislation.

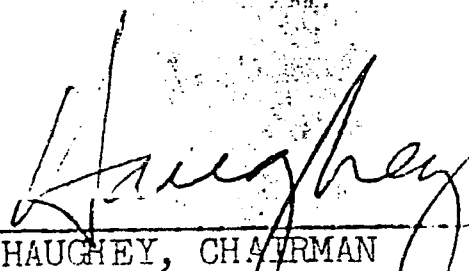
In 1935 New Mexico had 300 wells, while in 1955 New Mexico had more than 30 thousand pumping irrigation. The Montana Conservation Council is for this bill. Also the Grange Bureau is supporting this bill. In 1951 I introduced a bill with the Water Board in it - never came out of committee. In 1953 I introduced a bill with the Water Board in it - never came out of committee. In 1955 it came out of committee but only lived five minutes. In 1959 I had a good water bill. Dean Stone, Professor of Law and Dr. Clark of the University of Mexico have helped with this bill. This is not my bill, it is the people's bill. Questions were directed to Senator McGowan. Senator McGowan stated that first in time, first in line gives a man a priority to water.

Brief discussion followed. Motion was made by Jensen of Mineral and seconded by Bradford that Senate Bill No. 78 Be Concurred In. Motion left pending.

Meeting will be held upon recess of the House today to further consider this bill.

Motion was made by Blewett and seconded by Bentz that the meeting be adjourned.

Meeting adjourned.


JAMES M. HAUGHEY, CHAIRMAN

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February 26, 1961

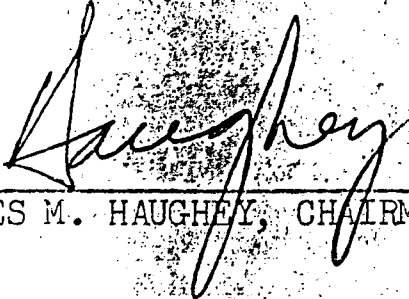
JUDICIARY COMMITTEE

Brief meeting of the House Judiciary Committee was held at 9 a.m. on Saturday, February 25, 1961. Chairman Haughey presided.

Upon roll call all members were present Jensen of Lake, Cerovski, Stimatz, Conklin, Bradford.

Chairman Haughey explained Substitute Bill proposed for Senate Bill No. 78. Motion was made by Blewett and seconded by Dykstra that this bill as amended be adopted. Motion carried.

Motion was made by Dykstra and seconded by Blewett that the meeting be adjourned. Meeting adjourned.



JAMES M. HAUGHEY, CHAIRMAN

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MR. PRESIDENT:

We, your Committee on JUDICIARY

having had under consideration SENATE Bill No. 78

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO AND PROVIDING FOR THE APPROPRIATION AND REGULATION OF GROUND WATER; DEFINING TERMS USED IN THE ACT; PROVIDING FOR THE APPROPRIATION OF GROUND WATER; PROVIDING FOR THE FILING OF CLAIMS OF VESTED GROUND WATER RIGHTS WITH THE STATE WATER CONSERVATION BOARD AND COUNTY CLERK AND RECORDER; PROVIDING FOR THE FILING OF NOTICES OF APPROPRIATION OF GROUND WATER AFTER THE EFFECTIVE DATE OF THE ACT WITH THE STATE ENGINEER AND COUNTY CLERK AND RECORDER; PROVIDING FOR PRIOR RIGHTS; PROVIDING FOR THE DESIGNATING AND MODIFYING OF BOUNDARIES OF GROUND WATER AREAS AND SUB-AREAS BY STATE WATER CONSERVATION BOARD; AUTHORIZING STATE WATER CONSERVATION BOARD TO MAKE SURVEYS, INVESTIGATIONS AND STUDIES OF GROUND WATERS; PROVIDING FOR THE LIMITING OF WITHDRAWALS FROM GROUND WATER AREAS OR SUB-AREAS; PROVIDING FOR CHANGE OF LOCATION OF GROUND WATER WELLS AND OTHER

Respectfully report as follows: That Bill No.

WORKS; PROVIDING FOR ABANDONMENT OF GROUND WATER RIGHTS; PROVIDING AGAINST WASTE OF GROUND WATERS AND PROVIDING FOR THE REGULATION OF WELLS TO PREVENT WASTE; PROVIDING FOR A HEARING BEFORE THE DISTRICT COURT TO CONFIRM THE ORDERS OF THE STATE WATER CONSERVATION BOARD; PROVIDING FOR APPEALS; AUTHORIZING COUNTY ATTORNEYS TO PERFORM CERTAIN SERVICES; AUTHORIZING STATE WATER CONSERVATION BOARD TO ADMINISTER OATHS AND TO PRESCRIBE REASONABLE RULES AND REGULATIONS; PROVIDING FOR FEES; PROVIDING PENALTIES FOR VIOLATIONS OF THE ACT; AND REPEALING SECTIONS 89-2901 TO 89-2910, INCLUSIVE, REVISED CODES OF MONTANA, 1947, AND ALL ACTS AND PARTS OF ACTS IN CONFLICT WITH THE PROVISIONS OF THIS ACT; PROVIDING FOR A SAVING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 78

~~EXAMINER~~ BE NOT CONCURRED IN

But that HOUSE SUBSTITUTE FOR SENATE BILL NO. 78 -- Introduced by the the COMMITTEE ON JUDICIARY: A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO AND PROVIDING FOR THE APPROPRIATION AND REGULATION OF GROUND WATER; DEFINING TERMS USED IN THE ACT; PROVIDING FOR THE APPROPRIATION OF GROUND WATER; PROVIDING FOR THE FILING OF CLAIMS OF VESTED GROUND WATER RIGHTS WITH THE STATE ADMINISTRATOR AND COUNTY CLERK AND RECORDER; PROVIDING FOR THE FILING OF NOTICES OF APPROPRIATION OF GROUND WATER AFTER THE EFFECTIVE DATE OF THE ACT WITH THE STATE ENGINEER AND COUNTY CLERK AND RECORDER; PROVIDING FOR PRIOR RIGHTS; PROVIDING FOR THE DESIGNATING AND MODIFYING OF BOUNDARIES OF GROUND WATER AREAS AND SUB-AREAS BY STATE ADMINISTRATOR; AUTHORIZING STATE ADMINISTRATOR TO MAKE SURVEYS, INVESTIGATIONS AND STUDIES OF GROUND WATERS; PROVIDING FOR THE LIMITING OF WITHDRAWALS FROM GROUND WATER AREAS OR SUB-AREAS; PROVIDING FOR CHANGE OF LOCATION OF GROUND WATER WELLS AND OTHER WORKS; PROVIDING FOR ABANDONMENT OF

DO NOT

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Chairman

JAMES M. HAUGHEY

MR. PRESIDENT:

We, your Committee on.....
having had under consideration.....Bill No.....

Respectfully report as follows: That.....Bill No.....

GROUND WATER RIGHTS; PROVIDING AGAINST WASTE OF GROUND WATERS AND PROVIDING FOR THE REGULATION OF WELLS TO PREVENT WASTE; PROVIDING FOR A HEARING BEFORE THE DISTRICT COURT TO CONFIRM THE ORDERS OF THE STATE ADMINISTRATOR; PROVIDING FOR APPEALS; AUTHORIZING COUNTY ATTORNEYS TO PERFORM CERTAIN SERVICES; AUTHORIZING STATE ADMINISTRATOR TO ADMINISTER OATHS AND TO PRESCRIBE REASONABLE RULES AND REGULATIONS; PROVIDING FOR FEES; PROVIDING PENALTIES FOR VIOLATIONS OF THE ACT; AND REPEALING SECTIONS 89-2901 TO 89-2910, INCLUSIVE, REVISED CODES OF MONTANA, 1947, AND ALL ACTS AND PARTS OF ACTS IN CONFLICT WITH THE PROVISIONS OF THIS ACT; PROVIDING FOR A SAVING CLAUSE: AND PROVIDING FOR AN EFFECTIVE DATE."

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February 28, 1961

The Committee on Water and Irrigation met on February 28, 1961, in Room 404 of the State capitol building at 1:35 P.M. The meeting was called to order by Chairman McGowan, with the following members present: Senators McGowan, Stein, Groff, Balgord, Shaw and Rice.

Senator McGowan told the members of the Committee that the House killed Senate Bill 78 and substituted as an amendment House Substitute for Senate Bill No. 78.

Senator Rice made a motion that House Substitute for Senate Bill No. 78 Be Concurred In. Senator Groff seconded the motion and the motion carried.

There being no further business to come before the Committee, Senator Balgord moved the meeting adjourn. Senator Groff seconded the motion and the motion carried.

Chairman

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March 1 29, 1961

The Committee on Water and Irrigation met on February 29th, 1961, in Room 404 of the State capitol building at 12:50 P.M. The meeting was called to order by Chairman McGowan, with the following members present: Senators McGowan, Schoonover, Balgord, Shaw and Rice.

Senator McGowan explained to the members of the Committee that there were some amendments to House Substitute for Senate Bill No. 78, and that he would like a motion that the Committee reconsider the action taken the preceding day on the Bill and that the minutes be cancelled. Senator Shaw made a motion that the minutes for February 28, 1961, be cancelled. Senator Schoonover seconded the motion and the motion carried.

Senator Shaw made a motion that House Substitute for Senate Bill No. 78, as amended, Be Concurred In. Senator Rice seconded the motion and the motion carried.

There being no further business to come before the Committee, Senator Balgord made a motion that the meeting adjourn. Senator Rice seconded the motion and the motion carried.

GORDON MCGOWAN, CHAIRMAN

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receiving record of a conviction or a forfeiture of bail, the supervisor or the board, shall also request and require of the registrar the suspension of the registration for all motor vehicles registered in the name of such person, except that the registrar shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

Proof of financial
responsibility
required
for renewal.

"(b) Such license shall remain revoked and such registration shall remain suspended and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person nor shall any motor vehicle be thereafter registered in the name of such person until permitted under the motor vehicle laws of this state and not then unless and until he shall give and thereafter maintain proof of financial responsibility.

Proof required
for issuance of
license and
registration.

"(c) If a person is not licensed but by the final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the revocation of a license no license shall be thereafter issued to such person and no motor vehicle shall continue to be registered or thereafter be registered in the name of such person until he shall give and thereafter maintain proof of financial responsibility.

Proof required
of nonresident.

"(d) Whenever the supervisor or the board revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail such privilege shall remain so revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 14, 1961.

CHAPTER 237

An Act Relating to and Providing for the Appropriation and Regulation of Ground Water; Defining Terms Used in the Act; Providing for the Appropriation of Ground

Water; Providing for the Filing of Claims of Vested Ground Water Rights with the State Administrator and County Clerk and Recorder; Providing for the Filing of Notices of Appropriation of Ground Water After the Effective Date of the Act with the State Engineer and County Clerk and Recorder; Providing for Prior Rights; Providing for the Designating and Modifying of Boundaries of Ground Water Areas and Sub-Areas by State Administrator; Authorizing State Administrator to Make Surveys, Investigations and Studies of Ground Waters; Providing for the Limiting of Withdrawals from Ground Water Areas or Sub-Areas by the Supervisor; Providing for Change of Location of Ground Water Wells and Other Works; Providing for Abandonment of Ground Water Rights; Providing Against Waste of Ground Waters and Providing for the Regulation of Wells to Prevent Waste; Providing for a Hearing Before the District Court to Confirm the Orders of the State Administrator; Providing for Appeals; Authorizing County Attorneys to Perform Certain Services; Authorizing State Administrator to Administer Oaths and to Prescribe Reasonable Rules and Regulations; Providing for Fees; Providing Penalties for Violations of the Act; and Repealing Sections 89-2901 to 89-2910 Inclusive, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict with the Provisions of This Act; Providing for a Saving Clause; and Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** As used in this act or regulations issued hereunder.

Definitions.

(a) "Groundwater" means any fresh water under the surface of the land including the water under the bed of any stream, lake, reservoir or other body of surface water. Fresh water shall be deemed to be water fit for domestic, livestock or agricultural use. The administrator, after notice and hearing, is authorized to fix definite standards for determining fresh water in any controlled groundwater area or sub-area of the state.

"Groundwater."

(b) "Aquifer" means any underground geological structure or formation which is capable of yielding water or is capable of recharge.

"Aquifer."

(c) "Well" means any artificial opening or excavation

"Well."

tion in the ground, however made, by which groundwater can be obtained or through which it flows under natural pressures or is artificially withdrawn.

"Beneficial use."

(d) "Beneficial use" means any economically or socially justifiable withdrawal or utilization of water.

"Person."

(e) "Person" means any natural person, association, partnership, corporation, municipality, irrigation district, the State of Montana or any political subdivision or agency thereof, and the United States or agency thereof.

"Administrator."

(f) "Administrator" means the state engineer of the State of Montana.

"Groundwater area."

(g) "Groundwater area" means an area which, as nearly as known facts permit, may be designated so as to enclose a single and distinct body of groundwater, which shall be described horizontally by surface description in all cases and which may be limited vertically by describing known geological formations should conditions dictate this to be desirable. For purposes of administration, large groundwater areas may be divided into convenient administrative units "known as sub-areas."

Priority of rights—
surface water
appropriated
before January
1, 1962.

Section 2. **Rights to use.** Rights to surface water where the date of appropriation precedes January 1, 1962 shall take priority over all prior or subsequent groundwater rights. The application of groundwater to a beneficial use prior to January 1, 1962 is hereby recognized as a water right. Beneficial use shall be the extent and limit of the appropriative right. As to appropriations of groundwater completed on and after January 1, 1962, any and all rights must be based upon the filing provisions hereinafter set forth, and as between all appropriators of surface or groundwater on and after January 1, 1962, the first in time is first in right. The right to use groundwater may be obtained without a well, as by sub-irrigation and other natural processes, and appropriations by such means are provided for under section 3 hereof. Appropriative rights shall relate only to quantities of water for beneficial uses and not to water levels, means of use, or ease of withdrawal; and appropriative rights shall not apply to minimal household use as provided in section 5 hereof.

After January
1, 1962.

Right to use
groundwater—
how obtained.

Forms for filing.

Section 3. **Filing — Notice of appropriation — Notice of completion.** (a) The administrator shall prepare and

publish forms for the filing by appropriators with the county clerks. They shall be known as a "notice of appropriation" and a "notice of completion," respectively. The notice of appropriation shall require, and provide space for, answers to such questions as: (1) the name and address of the appropriator; (2) the beneficial use for which the appropriation is made, including a description of the lands to be benefited if for irrigation; (3) the rate of use in gallons per minute of groundwater claimed; (4) the annual period (inclusive dates) of intended use; (5) the probable or intended date of first beneficial use; (6) the probable or intended date of commencement and completion of the well or wells; (7) the location, type, size and depth of the well or wells contemplated; (8) the probable or estimated depth of the water table or artesian aquifer; (9) the name, address and license number (if any) of the driller engaged; and (10) such other similar information as may be useful in carrying out the policy of this act.

Notice of
appropriation.

The notice of completion shall require answers to the same sort of questions as required for the notice of appropriation, except that for the most part it shall inquire as to accomplished facts concerning the well or means of withdrawal, including information as to the static level of water in the casing or the shut-in pressure if the well flows naturally; the capacity of the well in gallons per minute by pumping or by natural flow; the approximate draw down or pumping level of the well; the approximate surface elevation at the well head; the casing record of the well; the drilling log showing the character and thickness of all formations penetrated; the depth to which the well is drilled; and similar information.

Notice of
completion.

For the benefit of persons obtaining (or desiring to obtain) groundwater without a well (as by sub-irrigation and other natural processes) a specially prepared "notice of completion" shall be provided, enabling such persons to describe the means of using groundwater and to estimate the amount of water so used, and requiring such other similar information as shall be pertinent to this particular class of user. The administrator shall distribute said forms to the county clerks.

Special notice of
completion—
where no well.

(b) On and after January 1, 1962, any person desiring to appropriate groundwater may complete a notice of

Notice of
appropriation
filed with
county clerk.

appropriation and file it with the county clerk of the county in which the appropriation is located.

Clerk shall transmit copies.

(c) Upon the filing of a notice of appropriation, the county clerk shall transmit a copy thereof to the administrator, and to the Montana bureau of mines and geology, retaining the original on file locally.

Well construction must commence within 90 days.

(d) After filing a notice of appropriation, in order to acquire a right based thereon, the person must, within ninety (90) days, commence actual excavation and diligently prosecute construction of a well and, upon its completion, file a notice of completion with the county clerk of the county in which the appropriation is located. The county clerk shall handle and transmit such filed notices as in the case of a filed notice of appropriation.

Notice of completion filed with county clerk.

Effect—failure to file.

(e) A failure to file a notice of appropriation deprives the appropriator of his right to relate his date of appropriation back, and results in the dating of his appropriation as of when he files a notice of completion. Until a notice of completion is filed with respect to any use of groundwater instituted after January 1, 1962, no right to that use of water shall be recognized. However, in the case of uses instituted prior to January 1, 1962 and diligently prosecuted to completion on or after that date, the date of appropriation shall relate back to the date of commencement of construction, upon the filing of a notice of completion.

Relation back.

Filing under oil and gas laws deemed compliance.

(f) Persons required to file well logs and other information under the laws governing the conservation of oil and gas and who do so in compliance therewith, shall be deemed to have complied with all of the filing requirements of this act insofar as it applies to such particular oil and gas wells, salt water disposal wells, and injection wells. The date of appropriation in such cases shall be the date that written notice of intention to drill is given to the oil and gas conservation commission of the State of Montana.

Driller responsible.

(g) It shall be the responsibility of the driller of each well to fill out the notice of completion for the appropriator, and the latter shall be responsible for its filing.

Declaration of vested groundwater rights filed when.

(h) Persons who have put groundwater to a beneficial use, including sub-irrigation or other natural process, prior to January 1, 1962, shall, within two (2) years after

January 1, 1962, file a declaration in the office of the county clerk of the county in which the claimed right is situated. The declaration shall be made on a form known as a "declaration of vested groundwater rights" and shall contain the following information: (1) the name and address of the claimant; (2) the beneficial use on which the claim is based; (3) the date or approximate date of the earliest beneficial use, and how continuous the use has been; (4) the amount of groundwater claimed; (5) if the beneficial use has been for irrigation, the acreage and description of the lands to which such water has been applied and the name of the owner thereof; (6) the means of withdrawing such water from the ground and the location of each well or other means of withdrawal; (7) the date of commencement and completion of the construction of the well, wells or other works for withdrawal of groundwater; (8) the depth of water table; (9) so far as it may be available, the type, size and depth of each well or the general specifications of any other works for the withdrawal of groundwater; (10) the estimated amount of groundwater withdrawn each year; (11) the log of the formations encountered in the drilling of each well; and (12) such other information of a similar nature as may be useful in carrying out the policy of this act.

Form.

The county clerk shall transmit copies to the office of the administrator, and the bureau of mines and geology. The administrator shall attend to filing copies in any other counties affected by the appropriation.

Clerk shall transmit copies.

The declaration of vested groundwater rights herein provided for shall be taken and received in all courts of this state as prima facie evidence of the statements therein contained.

Evidence.

Failure to comply with this requirement shall in no wise work a forfeiture of such rights, or prevent any such claimant from establishing such rights in the courts, but he must maintain the burden of proving such unrecorded rights. Provided, however, that persons who have filed the water well log form, provided for in section 1 and 2 of chapter 58, session laws of Montana, 1957, shall be deemed to have complied with the requirements of this section. These latter forms may be returned to the county clerks by the administrator for the purpose of correction

Effect of noncompliance.

or for the entry of material facts necessary to fully complete the filing.

Proposal of area of controlled groundwater use—requirements.

Section 4. Designation or modification of controlled groundwater areas — Notice of hearings. Designation or modification of an area of controlled groundwater use may be proposed to the board by the administrator on his own motion or by petition signed by at least twenty (20) or one-fourth ($\frac{1}{4}$) (whichever is the lesser number) of the users of groundwater in a groundwater area wherein there is alleged to be factual data showing: (1) that groundwater withdrawals are in excess of recharge to the aquifer or aquifers within such groundwater area; (2) that excessive groundwater withdrawals are very likely to occur in the near future because of consistent and significant increases in withdrawals from within the groundwater area; or (3) that significant disputes regarding priority of rights, amounts of groundwater in use by appropriators, or priority of type of use are in progress within the groundwater area.

Hearing.

When such a proposal is thus made, the administrator shall fix a time and place for a hearing, which time shall not be less than thirty (30) days from the making of the proposal. The administrator, or the petitioners (as the case may be) shall publish a notice of the hearing setting forth therein

Notice of hearing.

- (1) the names of the petitioners;
- (2) the description by legal subdivisions of all lands included in the groundwater area or sub-area;
- (3) the purpose of the hearings and
- (4) the time and place of the hearing where any interested person may appear, either in person or by attorney, file written objections to the granting of the proposal and be fully heard. Such notice of hearing shall be published at least once in each week for three successive weeks before the date of the hearing in a newspaper of general circulation in the county or counties in which the said groundwater area or sub-area is located. The administrator or the petitioners (as the case may be) shall also cause a copy of the notice together with a copy of the petition to be served by mail, not less than twenty (20) days before the hearing on all persons, other than the petitioners, who have theretofore filed a declaration of

Publication.

Service.

a claim or notice of appropriation to withdraw groundwater from the particular groundwater area or sub-area involved in the proceedings. A copy of the notice together with a copy of the proposal shall be mailed to each person at his last known address and such service shall be complete upon depositing it in the post office, postage prepaid, addressed to each person on whom it is to be served. Publication and mailing of such notice, as prescribed herein, when completed shall be deemed to be sufficient notice of such hearing to all interested persons.

Section 5. Limiting withdrawals — Hearing and order. At the time set for the hearing the administrator, if he is satisfied that the notice of hearing has been duly published and mailed as required by section 4, shall proceed to hear evidence and may consider information which he has duly obtained under this act, and after the conclusion of the hearing shall make written findings and an order. If the administrator finds that the withdrawal of groundwater in such area or sub-area exceeds the safe annual yield of groundwater as measured by the recharge of the area or sub-area, he shall order the aggregate withdrawal of groundwater from such area or sub-area decreased so that it shall not exceed such annual yield. Except for domestic use, such decrease shall conform to the priority of the pertinent rights and shall prevail for the term of shortage in the available supply. The administrator shall have the authority to enforce the order; to require persons to cease such excessive withdrawals in reverse order of their priority of rights; and to bring an action for an injunction in a district court of a district in which all or part of the area affected is located, in addition to all other remedies.

Conduct of hearing—findings and order.

Authority given administrator.

The order of the administrator shall be published and mailed by the administrator in the manner and for the length of time as prescribed by section 4 of this act for the publication and mailing of the notice of hearing except that a copy of the written findings of the administrator shall be mailed instead of a copy of the proposal, and except further, that a copy of the order together with a copy of the written findings shall be mailed to each petitioner at his last known address. Upon publication and mailing of such order, as prescribed herein, the order shall be final and conclusive unless an appeal therefrom

Publication and mailing of copies of orders.

is taken within the time and in the manner prescribed in section 10 of this act.

Modification
or revocation
of orders.

Once a petition has been filed and an order has been made limiting the withdrawal of groundwater from a particular groundwater area or sub-area, as provided in this section, the administrator shall have authority after notice and hearing as heretofore provided in this section, to modify or revoke his order upon a showing by any interested party and a finding by the administrator that conditions have materially changed since the prior order. While a matter is pending before the administrator, the administrator shall have discretion and authority to restrict further development of the sub-area.

Who may initiate
hearing—
ascertainment
of rights.

Section 6. Administrative finding of priorities. Any person claiming a right to withdraw groundwater (whether or not from a controlled area) or the administrator at his discretion, may initiate a hearing by the administrator for the ascertainment of all existing rights to the use of the groundwater in the groundwater area or sub-area involved. The administrator shall produce at the hearing a map showing and describing all the lands included in the groundwater area or sub-area, and copies of all data upon which any prior designation or modification order was based. The waiving or assignment of rights by mutual agreement for either temporary or extended periods, shall not modify or cancel the relative priorities of the rights.

Jurisdiction—
water in oil and
gas production.

Within any designated or modified controlled groundwater area or sub-area wherein oil and/or gas wells produce either fresh, brackish, or saline water associated with oil and gas, the volume of production of which is dependent entirely on the oil and/or gas withdrawals, such production of water shall be under the prior jurisdiction of the Montana oil and gas conservation commission. Hearings pertaining to the production, use, or disposal of water from such wells shall be held by the said commission in accordance with the procedures established by that commission. The administrator may petition the Montana oil and gas conservation commission for hearings in regard to such operations and shall be notified by the Montana oil and gas conservation commission of any such hearings instigated by other parties, when such hearings involve

operations within a controlled groundwater area or sub-area.

Hereafter, in any such hearing for the ascertainment and finding of priorities, involving rights to the use of groundwaters, all appropriators of groundwater or of surface water in the particular controlled area, or sub-area shall be included as parties and notified in the manner provided in section 4 hereof.

Appropriators
shall be included
in hearings.

Section 7. Scope of administrative hearing. In any hearing for the ascertainment and finding of priorities to the use of groundwater, the administrator in his finding and order shall confirm, modify, alter or amend any prior order designating and modifying the boundaries of the groundwater area or sub-area involved, as the evidence justifies, shall determine the priority of rights and the quantity of groundwater to which each appropriator, who is a party to the proceedings, shall be entitled in such particular groundwater area or sub-area, and shall find and determine any other matter necessary to the ascertainment of priorities of such existing rights to groundwater. He may also determine the level below which the groundwater shall not be drawn by appropriators. The administrator shall act in administering and enforcing the provisions of the order, as provided in section 5 hereof.

Scope of
administrative
hearing.

A copy of the order shall be recorded in the office of the clerk and recorder of each county in which the particular groundwater area or sub-area is located. If the order is not appealed within the time limit and otherwise as is provided in section 10 of this act, the order of the administrator shall be final and conclusive when it is published and mailed as provided for orders issued under section 5 hereof.

Order recorded.

Section 8. Permit required to appropriate in controlled area. Persons desiring to appropriate groundwater in a controlled area, must file a notice of appropriation stamped "permit requested," and shall not commence the drilling or excavation of a well until the administrator has reviewed the notice of appropriation and issued an order either granting or denying the appropriator a permit to proceed with the appropriation, by stamping the notice of appropriation "permit granted" or "permit denied," and affixing his signature thereon.

Appropriator
must secure
permit.

Limitation on
granting of
permit.

Service by mail—
notice of order.

Hearing for
review.

Petition—
requirements.

Publication and
service of notice.

The administrator shall act promptly upon any such request. The administrator shall not grant a permit if the withdrawal would be beyond the capacity of the aquifer or aquifers in the groundwater area to yield groundwater within a reasonable or feasible pumping lift (in the case of pumping developments) or within a reasonable or feasible reduction of pressure (in the case of artesian developments). The administrator shall cause a notice of his order to be served by mail on the applicant and on each owner of a decreed right to use groundwater in the particular groundwater area or sub-area from which the license is sought. Such order shall be mailed to the applicant at the address shown on the application and to each such owner of a decreed right at the address shown on the administrator's records. Service shall be complete upon depositing such order in the post office, postage prepaid, addressed to the person on whom it is to be served. Upon its mailing, the order shall be final and conclusive unless a hearing is obtained within the time and in the manner prescribed in section 9 of this act.

Section 9. **Hearing.** Any person aggrieved by any order of the administrator, including any applicant for a license who is dissatisfied with the order of the administrator as made under the provisions of section 8 of this act, and any holder of a groundwater right who is dissatisfied with the order of the administrator in granting an applicant a license to appropriate water under section 8 of this act, may obtain a hearing by the administrator to review the decision. Said hearing shall be taken by filing a verified petition with the administrator within thirty (30) days following the date of the making of the order and service of said order on the petitioner. The petition shall contain a copy of the notice of appropriation filed with the administrator, a copy of the order of the administrator, shall state the location of the particular groundwater area or sub-area, the amount of groundwater sought to be appropriated, and shall contain a brief statement of the reason or reasons why the order of the administrator is believed to be unsound. The petitioner shall publish a notice of the hearing, and serve notice of the hearing and petition by mail, as provided for petitioners for a hearing under section 4 of this act. At the hearing the administrator shall receive evidence,

make findings, and issue an order sustaining, reversing, or modifying his prior order.

If this order of the administrator is not appealed within the time limit and otherwise as is provided in section 10 of this act, the order of the administrator shall be final and conclusive when it is issued.

Section 10. **Appeals.** Within sixty (60) days after notice is given of any order or determination by the administrator any party affected thereby may appeal to the district court of the judicial district of the State of Montana, in and for a county wherein all or any part of the groundwater area or sub-area affected is situated, and said appeal shall be for the purpose of having the lawfulness of the order or determination inquired into and determined.

Section 11. **How appeal taken — Notice — Record — Trial.** Said appeal shall be taken by serving a written notice of said appeal upon the administrator and filing the original with the clerk of the court to which said appeal is taken. A copy of such notice must also be served upon any adversary parties, if there be any, by mailing the same to said adversary parties at their last known addresses. Immediately upon service upon said administrator of said notice, the administrator shall certify to said district court the entire record and proceedings, including all testimony and evidence taken by said administrator, with the clerk of said district court. Immediately upon the return of such certified record, the district court shall fix a day for the hearing of said cause, and shall cause notice to be served upon the administrator and upon the appellant, and also upon any adversary parties, if there be any. The court may, upon the hearing, for good cause shown, permit additional evidence to be introduced, but, in the absence of such permission from the court, the cause shall be heard on the record of the administrator, as certified to the court. The trial of the matter shall be de novo, and upon such trial the court shall determine whether or not the administrator regularly pursued his authority, and whether or not the findings of the administrator ought to be sustained, and whether or not such findings are reasonable under all the circumstances of the case.

Section 12. **Appearance — Setting aside conclusions.**

Order final—
when.

Appeal to
district court.

Notice of appeal.

Certification
of record.

Notice of hearing.

Trial de novo.

Appearance.

orders, etc., of administrator — Judgment and findings. The administrator and each party to the action or proceeding before the administrator shall have the right to appear in the proceeding and it shall be the duty of the administrator to so appear. If the court shall find from such trial, as aforesaid, that the findings and conclusions of the administrator are not in accordance with either the facts or the law, or that they ought to be other or different than those made by the administrator, or that any finding and conclusion, or any order, or determination of the administrator is unreasonable, the court shall set aside such finding, conclusion, order or determination of said administrator, or shall modify or change the same as law and justice shall require, and the court shall also make and enter any finding, conclusion, order or judgment that shall be required, or shall be legal and proper in the premises.

Court may
set aside.

Judgment
and findings.

Appeal to
supreme court.

Section 13. Appeals to supreme court. Either the administrator or the appellant, or any adversary party, if there be any, may appeal to the supreme court of the State of Montana from any final order, judgment, or decree of the said district court, which said appeal shall be taken in like manner as appeals are now taken in other civil actions to the said supreme court, and upon such appeal the said supreme court shall make such orders in reference to a stay of proceedings as it finds to be just in the premises, and may stay the operation of any order, judgment, or decree of said district court, without requiring any bond or undertaking from the applicant for such stay.

Change
of location.

Section 14. Change of location. An appropriator of groundwater may change the location of his well or other works for obtaining water without loss of priority to a point within the same area or sub-area if others are not thereby injured. He shall notify the administrator of any such change.

Beneficial
purpose—
abandonment.

Section 15. Appropriation must be for a useful purpose — Abandonment. The appropriation must be for some beneficial purpose and when the appropriator or his successor in interest abandons and ceases to use the water for such purpose, the right ceases; but questions of abandonment shall be questions of fact and shall be determined as other questions of fact.

Section 16. Waste and contamination of groundwater prohibited — Exception — Duties of administrator. No groundwaters shall be wasted without beneficial use. The administrator shall require all wells producing waters which contaminate other waters to be plugged or capped. He shall also require all flowing wells to be so capped or equipped with valves that the flow of water can be stopped when the water is not being put to beneficial use. Likewise, both flowing and non-flowing wells shall be so constructed and maintained as to prevent the waste, contamination or pollution of groundwaters through leaky casings, pipes, fittings, valves, or pumps either above or below the land surface, provided however, in the following cases the withdrawal or use of groundwater shall not be construed as waste under this act:

Waste,
contamination
and pollution
shall be prevented.

(1) the withdrawal of reasonable quantities of groundwater in connection with the construction, development, testing, or repair of a well or other means of withdrawal of groundwaters;

(2) the inadvertent loss of groundwater owing to breakage of a pump, valve, pipe, or fitting, if reasonable diligence is shown by the person in effecting the necessary repair;

(3) the disposal of groundwater without further beneficial use that must be withdrawn for the sole purpose of improving or preserving the utility of land by draining the same, or that removed from a mine to permit mining operations or to preserve the mine in good condition;

(4) the disposal of groundwater used in connection with production, for reduction, smelting and milling metallic ores and industrial minerals, or that displaced from an aquifer by the storage of other mineral resources.

The administrator at any time may hold a hearing on his own motion, or upon petition signed by a representative body of users of groundwater in any area or sub-area, to determine whether the water supply within such area or sub-area is used in compliance with this act.

Section 17. Inspection — Entry on premises. The administrator or any assistant, any representative of the state bureau of mines and geology or the state board of health, shall have the right of entry on the property of

Right of entry
for inspection.

any appropriator, where a well is situated, at any reasonable hour of the day, for the purpose of investigating any matters in connection with this act.

Public record.

Section 18. **Information available to public.** Such information as is required or secured under the provisions hereof shall constitute public records, and as such shall be available to the public at all reasonable times.

Reports additional.

Section 19. **Reports to be in addition to other reports required.** The forms, reports and information required to be filled by this act shall be in addition to all other reports and information which the drillers of water wells in the State of Montana are required by law to file with agencies of the State of Montana.

Duties of public officials.

Section 20. **Duty of county attorneys and attorney general.** The county attorneys and the attorney general of the state shall perform such legal services and bring such legal proceedings in carrying out the purpose of this act within their respective counties as the administrator shall request.

Administrator shall regulate.

Section 21. **Rules and regulations.** The administrator may prescribe and enforce reasonable rules and regulations concerning and providing for inspection and entry for that purpose by the administrator or his official representative; the circumstances under which the construction of weirs or other measuring devices may be required; and such other similar matters as are required by, and consistent with the administration of this act.

Administrator may appoint supervisors.

Section 22. **Groundwater supervisors — Duties.** The administrator may appoint one or more groundwater supervisors for each designated controlled area, and may appoint one or more groundwater supervisors at large. Within their respective jurisdictions and under the direction of the administrator, the groundwater supervisors and supervisors at large shall supervise the withdrawal of groundwater and the carrying out of orders issued by the administrator.

Investigations.

Section 23. **Investigations.** It shall be the duty of the administrator to compile information for the purpose of enabling him to comply with the provisions of this act. In compiling such information, the administrator is directed to make use of investigations, technical personnel,

surveys, and information available from the Montana bureau of mines and geology, the United States geological survey, the Montana oil and gas conservation commission, the state board of health, and any other private, state, or governmental agency.

In addition to the foregoing, the administrator may request specific investigations by the preceding public agencies where desired information is not otherwise available.

Section 24. **Power to administer oaths and subpoena witnesses.** The administrator shall have the power to administer oaths and to issue subpoenas for the attendance of witnesses, in any investigation hearing or proceeding held by him.

Powers—oaths and subpoenas.

Section 25. **Fees.** For the filing of any notices, declarations, applications for a license, petition, or other matters with the county clerks, or administrator, a fee of two dollars (\$2.00) for each such document shall be paid. Fees paid to the administrator shall be paid by him to the general fund of the state; fees paid to the county clerks shall be paid by them to the general fund of their respective counties.

Filing fees.

Section 26. **Penalties.** Any person who violates or refuses or neglects to comply with any provision of this act, or of any order, rule or regulation promulgated by the administrator, or who commits waste, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than two hundred and fifty dollars (\$250.00) for each offense.

Penalties.

Section 27. **Severability.** If any provision of this act, or the application thereof to any person or circumstance, is held unconstitutional, the remainder of the act, or the application of such provisions to other persons or circumstances, shall not be affected thereby.

Severability clause.

Section 28. Chapter 218, laws of 1947, Revised Codes of Montana, 1947, section 89-2901 through 89-2910, chapter 58, laws of 1957, Revised Codes of Montana, 1947, section 89-3101 through 89-3103, and all acts and parts of acts in conflict with the provisions of this act are hereby repealed; provided, that this act shall not constitute a repeal of sections 69-1311 to 69-1313.

Repealing clause.

Saving clause.

Effective
January 1, 1962.

Section 29. **Effective date.** This act shall take effect on and after January 1, 1962.

Approved March 14, 1961.

CHAPTER 238

An Act Relating to Ambulance Service in Counties, Cities and Towns; Permitting a County, City or Town, Acting Alone or With Another County, City or Town to Establish and Maintain Such Ambulance Service Upon Receipt of a Petition Signed by Fifty Per Centum (50%) of the Taxpayers Listed on the Last-Completed Assessment Roll; Authorizing the County, City and Town to Contract for Facilities and Equipment and Operators or Attendants, to Adopt Rules and Establish Fees; and Providing for a Retention of Existing Service.

Be it enacted by the Legislative Assembly of the State of Montana:

City, county or
town may
establish
ambulance
service.

Section 1. A county, city or town, acting through its governing body, may establish and maintain an ambulance service for such county, city or town, and it may also contract with another county, city or town to establish and maintain a joint ambulance service and to share the costs, such costs to be apportioned according to the benefits to accrue, the proportion to be paid by each to be fixed in advance by joint resolution by the respective governing bodies, if the governing body has received a petition signed by fifty per centum (50%) of the taxpayers who are listed on the last-completed assessment roll.

Operation.

Section 2. If a county, city or town establishes or maintains such ambulance service it may, acting through its governing board:

- (1) Operate the service itself or contract for such service;
- (2) Buy, rent, lease or otherwise contract for vehicles, equipment, facilities, operators or attendants;
- (3) Adopt rules and establish fees or charges for the furnishing of such ambulance service.

Section 3. The provisions of this act shall in no way affect county, city or town ambulance service in operation at the time of its passage.

Existing services
not affected.

Approved March 14, 1961.

CHAPTER 239

An Act Relating to Classification of Property for Taxation to Provide for the Encouragement of New Industry in the State of Montana by Establishing a Separate Classification for New Industrial Property During the First Three (3) Years of Operation; Amending Section 84-301, Revised Codes of Montana, 1947, as Last Amended by Chapter 88 of the Laws of Montana, 1957, to Provide a Classification for New Industrial Property; Amending Section 84-302, Revised Codes of Montana, 1947, to Provide a Basis for Imposition of Taxes on New Industrial Property; Repealing All Acts and Parts of Acts in Conflict Herewith; Containing a Severability Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Statement of Purpose.** The legislative assembly of the State of Montana hereby declares that it is in the best interests of the people of this state to encourage and stimulate the establishment of new industry within Montana. It recognizes that a new industrial plant does not reach full productivity and competitive capacity during the initial years of its operation. Since taxation of property should be related to property in proportion to its use, productivity, utility, and general setting in the economic organization of society, the purpose of this act is to provide a separate classification for new industrial property which gives proper recognition to these factors and places such property in the proper class for taxation purposes.

Purpose of act—
establishment of
new industry.

Section 2. Section 84-301, Revised Codes of Montana, 1947, as last amended by chapter 88 of the laws of Montana, 1957, is hereby amended to read as follows:

Amending clause.

“84-301. (1999) **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

Classification
of property
for taxation.